

March 3, 2014

To: Members of the Judiciary Committee

Fr: Connecticut Bankers Association  
Contacts: Tom Mongellow, Fritz Conway

Re: SB 258, AN ACT CONCERNING BAD FAITH CLAIMS OR ASSERTIONS OF PATENT INFRINGEMENT

Position: SUPPORT

The CBA is the collective voice of the banking industry throughout the State and those institutions, with their 15,000 employees and 110 billion dollars of assets provide the majority of financial services for the citizens of Connecticut.

The CBA and the industry it represents, strongly supports Senate Bill 258, as it would protect any business that provides ATM availability for its customers, (e.g. banks, retailers and restaurants) to avoid frivolous patent infringement claims and the costs associated with defending them.

The frivolous claims became known to us back in 2012 when community banks in a number of states (notably New Hampshire) started receiving letters from law firms representing patent holders, indicating that they were violating patents due to their ATMs communicating over the internet. There was no basis for these claims because banks don't use the internet to process those transactions. These letters were targeted at smaller banks that don't typically have an in-house legal department, or the resources to defend a patent claim in court (upwards of \$100,000 just to begin the court defense). As a result many of those community banks tried to minimize their cost and settled the matter out of court by paying the law firms \$3000 or more per ATM.

These smaller "frivolous" settlement payments were exactly what the patent holders were, and are still after. They were well aware that it is too expensive to litigate and that many of the community banks would just pay them to get rid of the potential lawsuit. They "trolled" their patents around the banking industry in an attempt to win small but numerous payments, when there was little or no basis for alleging infringement.

Seeing what was happening in other states, we realized it was just a matter of time before the "patent trolls" arrived in Connecticut. As predicted, in January of last year at least 30 banks in the State received patent infringement letters from one particular patent troll, Automated Transactions LLC (ATL). It appears that ATL did such little due diligence on their ATM patent "infringement" claim, that it sent a letter to a bank that did not even have an ATM. This lack of due diligence, leading to frivolous claims in hopes of a quick "payday", is exactly why Senate Bill 258 is needed.

SB 258 would create a new standard of due diligence and good faith in ascertaining patent infringement in the State. This would discourage frivolous and costly allegations of infringement and send a clear signal to all patent trolls that Connecticut does not encourage baseless actions.

This legislation looks to be based on model language recently approved by the Council of State Governments and we are fully in support of it. At this point, numerous other states are looking at enacting similar legislation, and we strongly encourage the Committee to support this important bill.

We would look forward to providing the Committee with any additional information it may request on this subject and appreciate the opportunity to provide this testimony.